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AZUBU NORTH AMERICA, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

TURTLE ENTERTAINMENT GMBH, Plaintiff, v. AZUBU NORTH AMERICA, INC. Defendants.	Case No. 2: 17-cv-441 *The Hon. Virginia A. Phillips* *Referred to Magistrate Michael R. Wilner* **JOINT RULE 26(f) REPORT** Complaint Filed: January 19, 2017 Scheduling Conf.: May 15, 2017 Time: 1:30 pm

TO THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD: Pursuant to Federal Rule of Civil Procedure 26(f), Local Rule 26-1, and this Court's Order Requiring Joint Status Report, Plaintiff TURTLE ENTERTAINMENT GMBH ("Plaintiff" or "Turtle") and AZUBU NORTH AMERICA, INC. ("Defendant" or "Azubu") jointly submit this Status Report.

I. RULE 26(f) REQUIREMENTS

A. Rule 26(f)(3)(A) - What Changes Should be Made in the Timing, Form, or Requirement for Disclosure Under Rule 26(A), Including a Statement of When Initial Disclosures Were Made or Will be Made

The parties submit that no changes be made to the form for Rule 26(a) disclosures. The parties have agreed for initial written disclosures to be made on May 30, 2017, and for initial documents to the extent required by the Rule(s) be produced, such production be June 16, 2017.

B. Rule 26(f)(3)(B) – The Subjects on Which Discovery May Be Needed, When Discovery Should Be Completed, and Whether Discovery Should Be Conducted in Phases or Be Limited to or Focused on Particular Issues

The parties request that fact discovery end in February 2018 and that close of all discovery, including expert discovery be on May 28, 2018.

The parties' preliminary assessment is that discovery may be required on, but not limited to:

a) The allegations in the Complaint, Cross-Complaint, and any responsive documents;

b) Contract negotiations between the parties and evidence of the alleged contract between the parties

c) Performance or lack of performance of the alleged contract between the parties;

d) All affirmative defenses raised in the responsive pleadings;

e) Damages claimed by the parties; and

f) Evidence related to punitive damages.

The parties reserve the right to object to such discovery and to expand the scope of discovery as the case progresses. The parties do not believe that discovery needs to be conducted in phases or that it should be limited or focused on a particular issue.

The Parties agree that written discovery shall be propounded so that it can be answered prior to the start of expert discovery. The Parties agree that all other fact discovery shall be completed prior to the start of expert discovery.

Turtle intends to amend its complaint to include causes of action, *inter alia*, for fraudulent inducement to contract, goods and services rendered, implied in fact contract, and breach of the duty of good faith and fair dealing. Azubu reserves the rights to oppose such amendment.

C. Rule 26(f)(3)(C) - Any Issues About Disclosure or Discovery of Electronically Stored Information, Including the Form or Forms in Which it Should Be Produced

The parties agree to exchange all ESI in pdf format. Alternatively, upon request, information may be produced in native format or in a reasonable format given the nature of the information to be more readily reviewed and interpreted. The Parties agree that the form of ESI may be exchanged through a cloud based system such as Dropbox, by disc, email, or a flash drive, or, if needed, a mutually agreeable document review platform. All other discovery may be produced in a paper format or by any other means mentioned herein.

D. Rule 26(f)(3)(D) – Any Issues About Claims of Privilege or of Protection as Trial-Preparation Materials, Including – if the Parties Agree on a Procedure to Assert These Claims After Production – Whether to Ask the Court to Include Their Agreement in an Order

The Parties anticipate requiring a protective order in this case as the determination of damages will likely require the exchange of business secrets and profits of the businesses. The parties reserve the right to request that information be Attorneys-Eyes-Only and have agreed to circulate a proposed stipulation concerning such information. The Parties ask the Court to issue an Order pursuant to Rule 502 of the Federal Rules of Evidence that any inadvertent disclosure of any documents that are privileged under the attorney-client privilege or protected under the work-product protection that the privilege or protection is not waived and that the Parties will comply with Rule 26(b)(5)(B) upon Notice that such documents have been inadvertently produced. The parties agree that they will attempt to agree upon a stipulated protective order to be entered in this case.

E. Rule 26(f)(3) – What Changes Should Be Made in the Limitations on Discovery Imposed Under These Rules or By Local Rules, and What Other Limitations Should Be Imposed

The parties do not request any changes to the limitations on discovery. Due to the distance between the Parties and the likelihood that many deponents will be located outside of the United States, the Parties agree to give at least thirty (30) days notice of any deposition. To the extent reasonably practicable, depositions will be conducted in California unless otherwise agreed to by the parties. Both parties are concerned about potential depositions occurring in Germany, considering as well that certain potential deponents may reside in Germany. The parties have discussed possibly holding said depositions via a recorded video chat/link/feed if available to eliminate the need for extensive travel and/or to attempt to cluster the scheduling of the depositions to limit travel. The parties reserve the right to conduct such depositions in person.

Plaintiff’s position is that since Turtle initiated the case in the Central District of California, although they are a German corporation, that the parties do their best to hold depositions of those who live outside the United States within the United States

(California) and/or to use video depositions to limit the expense of multiple trans-Atlantic flights. Turtle is amendable to this accommodation.

The parties reserve the right to ask each of the other or Court to extend the 7-hour deposition limit per deponent.

F. Rule 26(f)(3)(F) – Any Other Orders That the Court Should Issue Under Rule 26(C) or Under Rule 16(b) and (c).

A protective order will likely be required concerning documents produced by the parties. The parties will cooperate in stipulating and presenting such an order to the Court. The parties do not propose that the court issue any additional orders regarding scheduling orders under rule 16(b), or requirements for the pretrial conference under rule 16(c) other than those contemplated herein.

II. LOCAL RULE REQUIREMENTS, PURSUANT TO L-R 26

A. Complex Cases [L.R. 26-1(a)]

This is primarily an action for breach of contract and fraud. The parties do not contend that this action will require compliance with procedures of the Manual for Complex Litigation.

B. Motion Schedule [L.R. 26-1(b)]

Turtle anticipates filing, and reserves their rights to file, a motion for summary judgment or partial summary judgment. Azubu anticipates filing, and reserves their rights to file, a motion for summary judgment or motion for judgment on the pleadings against Turtle.

C. ADR Procedure [L.R. 26-1(c)]

The parties agree upon ADR Procedure No. 3, private mediation if and when a mediator can be agreed upon the parties, but reserve the right for Court intervention if a mediator cannot be selected and agreed upon.

D. Trial Estimate [L.R. 26-1(d)]

The parties estimate that trial will take 7-10 days, including jury selection. The Parties propose the final pretrial conference occur on July 16, 2018, and the trial occur on July 30, 2018.

E. Additional Parties [L.R. 26-1(e)]

Turtle does not foresee adding additional parties

Azubu does not foresee adding additional parties.

F. Expert Witnesses [L.R. 26-1(f)]

The Parties propose that they will make initial expert disclosures on January 16 2018and final expert disclosures by March 16, 2018.

Respectfully submitted,

Dated: May 8, 2017 **DENTONS US LLP**

By:*/s/ Joshua Kroot*
Joshua Kroot
Attorneys for Plaintiff
Turtle Entertainment GMBH

Dated: May 8, 2017 **LAW OFFICES OF ADAM I. GAFNI**

By:*/s/Adam I. Gafni*
Adam I. Gafni
Attorneys for Defendant
Azubu North America, Inc.